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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,465	05/06/2008	John Michael Dooley	29793-1	6701

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BENESCH, FRIEDLANDER, COPLAN & ARONOFF LLP
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CLEVELAND, OH 44114-2378

EXAMINER

DRIGGERS-FOURNET, GWENDOLYN

ART UNIT	PAPER NUMBER
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3679

NOTIFICATION DATE	DELIVERY MODE
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03/03/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent@beneschlaw.com

Office Action Summary

Application No.

10/588,465

Applicant(s)

DOOLEY ET AL.

Examiner

Gwendolyn Driggers

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-18 is/are pending in the application.
- 4a) Of the above claim(s) 8-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/17/10</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is a final Office action on the merits. Claims 1, 2, and 5-18, as amended, are currently pending and have been considered below. Claims 8-18 have been withdrawn from consideration.

Specification

1. The disclosure is objected to because of the following informalities: on page 3 in line 5, reference is made to a tube retainer "as claimed in claim 1". This reference is not proper since the scope of the claims is subject to change.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Charmley et al (US 4,193,948; hereinafter Charmley).

Regarding claim 1, Charmley discloses a tube retainer comprising:

a tube (20) having an elongated external surface and a retention groove (32) formed in and lying below the elongated external surface, adjacent an open end of the tube (see figure 3), and

a holding clamp (44) configured as a flat plate having an aperture formed therein (see figure 4 at (28)) and a slot extending from the aperture without intersecting a periphery of the flat plate (see figure 4 at (30)), wherein the slot is configured for engaging the retention groove (see figure 3 which illustrates the slot is arranged such that it is capable of engaging the groove).

Regarding claim 2, Charmley further discloses wherein the retention groove is annular (see figure 3).

Regarding claim 5, Charmley further discloses wherein the tube further comprises a sealing groove (24) formed in the elongated external surface thereof interposed between the retention groove and the open end of the tube, wherein the sealing groove is adapted to receive sealing means (26).

Regarding claim 6, Charmley further discloses wherein the sealing means is an O-ring (26).

Regarding claim 7, Charmley discloses an assembly including the tube retainer of claim 1 (see figure 3), the assembly further including a device (40), said device having an inlet/outlet port (42) therein for receiving said tube.

Response to Arguments

4. Applicant's arguments filed 12/17/10 have been fully considered but they are not persuasive.
5. In response to Applicant's argument that Charmley does not disclose a holding clamp having an aperture and a slot as presented in amended claim 1, see the rejection above wherein Charmley discloses a holding plate (44) as claimed (see figure 4).

Conclusion

6. Applicant has amended claim 1 to include "a slot extending from the aperture without intersecting a periphery of the flat plate" in line 6.
7. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Driggers whose telephone number is (571)270-5740. The examiner can normally be reached on Mon-Fri 9:00a-5:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gwendolyn Driggers
Examiner
Art Unit 3679
2/17/11

/Daniel P. Stodola/
Supervisory Patent Examiner, Art Unit 3679